

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): POUSTCHI, et al.	Conf. No.: 5581
Application No.: 10/762,754	Art Unit: 2614
Filed: 22 Jan 2004	Examiner: GAUTHIER, GERALD
Title: CALL TRANSFER SYSTEM, METHOD AND NETWORK DEVICES	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REVIEW BY SUPERVISORY PATENT EXAMINER
PURSUANT TO MPEP 707.02

Sir:

Section 707.02 of the MPEP provides, in relevant part,

The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution.

and

Any application that has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution. In order to accomplish this result, the application is to be considered "special" by the examiner.

The above case has been pending for over five years, and four Office Actions have issued. The most recent Office Action is final even though it includes a new rejection of unamended claims 55 and 56. The Office Action also re-presents a rejection of claims 32-54 that was apparently withdrawn two Office Actions ago. This rejection indicates

that an "article of manufacture" is non-statutory under 35 U.S.C. 101 and is clearly improper.

Moreover, the examiner has not responded to Applicant's arguments as required by MPEP 707.07(f). Instead, the "Response to Arguments" section quotes three paragraphs of Applicant's arguments (including a direct request for clarification of a certain issue) followed by less than three lines stating that the examiner interprets "various devices" to satisfy limitations of some unspecified claims. Applicant's prior arguments explaining why an article of manufacture is statutory have never been addressed.

A fifth Office Action will now be needed in order to determine the examiner's basis for rejecting the claims, and this will further delay a final disposition of this case. It is respectfully requested that the examiner's supervisor "check on the pendency" of this application as required by MPEP 707.02 and have the examiner treat this application as "special" so that all claims can be allowed or so that clear issues for appeal can be developed.

Respectfully submitted,

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Date: June 30, 2009